

SUPREME COURT OF WISCONSIN

CASE No. : 2003AP429-CR

COMPLETE TITLE:

State of Wisconsin,
Plaintiff-Respondent,
v.
Jeffrey Townsend,
Defendant-Appellant-Petitioner.

REVIEW OF A DECISION OF THE COURT OF APPEALS
2006 WI App 177
Reported at: ___ Wis. 2d ___, 722 N.W.2d 753
(Ct. App. 2006-Published)

OPINION FILED: March 15, 2007
SUBMITTED ON BRIEFS:
ORAL ARGUMENT: February 14, 2007

SOURCE OF APPEAL:

COURT: Circuit
COUNTY: Milwaukee
JUDGE: Jeffrey A. Conen

JUSTICES:

CONCURRED:
DISSENTED:
NOT PARTICIPATING:

ATTORNEYS:

For the defendant-appellant-petitioner there were briefs and oral argument by *Ellen Henak*, assistant state public defender.

For the plaintiff-respondent the cause was argued by *William L. Gansner*, assistant attorney general, with whom on the brief was *Peggy A. Lautenschlager*, attorney general.

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 2003AP429-CR
(L.C. No. 2001CF5345)

STATE OF WISCONSIN

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IN SUPREME COURT

State of Wisconsin,
Plaintiff-Respondent,

FILED

v.

MAR 15, 2007

Jeffrey Townsend,
Defendant-Appellant-Petitioner.

A. John Voelker
Acting Clerk of Supreme
Court

REVIEW of a decision of the Court of Appeals. *Dismissed as improvidently granted.*

¶1 PER CURIAM. Jeffrey Townsend petitioned this court for review of a court of appeals decision State v. Townsend, 2006 WI App 177, __ Wis. 2d __, 722 N.W.2d 753, which affirmed a circuit court order denying his motion seeking to dismiss his judgment of conviction on the ground that the State of Illinois violated the statutory procedures of the Interstate Agreement on Detainers (IAD). By order dated October 10, 2006, this court granted the petition for review to consider the appropriate remedy for the State of Illinois' violation of the IAD. Oral argument in this case was conducted on February 14, 2007.

¶2 At the oral argument, counsel for the parties informed the court that they believed the petitioner had absconded from his supervision on parole on the conviction and sentence under review. The court directed the parties to confirm Townsend's status and to advise the court of the effect of that status on his pending appeal. The parties confirmed that Townsend has absconded from his parole supervision. Counsel for the petitioner urged the court to retain the matter.

¶3 It is within the discretion of the court to refuse to decide a criminal appeal if the defendant cannot be made to respond to the court's judgment. See Smith v. United States, 94 U.S. 97 (1876). Having considered the matter, the court will dismiss the petition for review as improvidently granted.

By the Court.—The review of the decision of the Court of Appeals is dismissed as improvidently granted.

